

Law Office of William F. Horn

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July 20, 2011

Hon. Arlene Rosario Lindsay, U.S.M.J.  
United States District Court  
Eastern District of New York  
100 Federal Plaza  
Central Islip, New York 11722

**Re: *Leidl, et al. v. The Law Office of Thomas Landis, et al.***  
E.D.N.Y. Case. No.: 2:10-cv-05899-JFB-ARL

Dear Judge Lindsay:

I am counsel for the Plaintiffs. I am writing pursuant to Your Honor's Individual Practice Rule 2.A and Local Civil Rule 37.3(c) in an effort compel the discovery responses of Defendants Law Office of Thomas Landis, Thomas Landis, LLC, and Thomas C. Landis. As discussed below, I certify that I have complied with the meet and confer requirements of Local Civil Rule 37.3(a) prior to filing this letter motion.

On Monday, April 25, 2011, Plaintiffs served the following written discovery on Defendants' counsel, Bradley J. Leven:

1. Plaintiff's First Set of Requests for Production of Documents, directed to Defendant, The Law Office of Thomas Landis;
2. Plaintiff's First Set of Requests for Production of Documents, directed to Defendant, Thomas Landis, LLC;
3. Plaintiff's First Set of Requests for Production of Documents, directed to Defendant, Thomas C. Landis;
4. Plaintiff's First Set of Requests for Admissions, directed to Defendant, The Law Office of Thomas Landis;
5. Plaintiff's First Set of Requests for Admissions, directed to Defendant, Thomas Landis, LLC;
6. Plaintiff's First Set of Requests for Admissions, directed to Defendant, Thomas C. Landis;
7. Plaintiff's First Set of Interrogatories, directed to Defendant, The Law Office of Thomas Landis;
8. Plaintiff's First Set of Interrogatories, directed to Defendant, The Law Office of Thomas Landis;

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9. Plaintiff's First Set of Interrogatories, directed to Defendant, The Law Office of Thomas Landis; and,
10. A Certificate of Service, whereby I certified that on April 25, 2011 I mailed to Defendants' counsel all of the above-listed documents.

A true and correct copy of the Certificate of Service for the foregoing discovery requests is attached hereto as **Exhibit A**. The Defendants' responses to Plaintiffs' discovery were due by May 25, 2011; however, Defendants did not serve any responses to Plaintiffs' discovery. On June 2, 2011, pursuant to Local Civil Rule 37.3(a), I sent a letter via email to Defendants' counsel in an effort to meet and confer regarding the status and whereabouts of Defendants' overdue discovery responses [*See, Exhibits B and C*].

On June 10, 2011, Mr. Levien responded to my June 2nd email, in which he contended that he never received Plaintiffs' written discovery requests and requested that I "re-e-mail them and grant a short extension to respond." [*See, Exhibit C*]. I replied to Mr. Levien's June 10th email the same day and provided him with an electronic copy of Plaintiffs' discovery requests (and certificate of service) and agreed to an extension until June 24, 2011, for Defendants' to provide their discovery responses. *Id.*

On June 13, 2011, Mr. Levien emailed me again and requested that I provide him with Plaintiffs' discovery requests in Word format and that I permit Defendants 30 days "30 days from [June 13, 2010] for responses." *Id.* On June 14, 2011, I responded to Mr. Levien's June 13th email in which I provided him with Plaintiffs' discovery requests in Word format and agreed to his request for a 30-day extension from June 13th for Defendants' to provide responses to discovery; thus, Defendants' discovery responses were now due by July 13, 2011. *Id.*

As of today's date, Defendants have not served any responses to Plaintiffs' initial sets of written discovery, nor have Plaintiffs received any communication from Mr. Levien regarding Defendants' discovery responses. As such, I e-mailed, and then called Mr. Levien's office to ascertain the status and whereabouts of Defendants' now seriously delinquent discovery responses. Mr. Levien was not in his office so I spoke with his paralegal, Kara Kowalski, who confirmed that Defendants have not served any responses to Plaintiffs' initial sets of written discovery requests identified above.

In sum, Defendants have now had nearly 90 days to provide their responses to written discovery, but decline to do so. Plaintiffs have not agreed to any further extensions of time for Defendants to provide their discovery responses beyond July 14, 2011.

Accordingly, Plaintiffs respectfully request that the Court compel Defendants to respond to Plaintiffs' Interrogatories and Requests for Production of Documents and that they provide their responses without objection pursuant to Fed. R. Civ. P. 33(b)(4) and Fed. R. Civ. P. 34(b)(2); see also, *Hall v. Sullivan*, 231 F.R.D. 468 (D. Md. 2005). Plaintiff further requests that, pursuant to Fed. R. Civ. P. 36(a)(3), the Court deem Plaintiffs' Requests for Admission admitted.

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Plaintiffs further request that Your Honor compel Defendants to provide their long-overdue Fed. R. Civ. P. 26(a) Initial Disclosures, which Plaintiffs have sought on multiple occasions, but which Defendants refuse to provide. [See, **Exhibit C**].

Plaintiffs thanks Your Honor in advance for the Court's consideration of this request.

Very truly yours,

s/ William F. Horn

William F. Horn

*Encl:stated*

*via ECF Filing Only*

cc: All Attorneys of Record *via ECF Filing*

# EXHIBIT “A”

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

\_\_\_\_\_  
RANDOLPH LEIDL, an individual; LISA  
WOOD, an individual; on behalf of themselves  
and all others similarly situated,

Plaintiffs,

vs.

THE LAW OFFICE OF THOMAS LANDIS, a  
fictitious entity of unknown origin; THOMAS  
LANDIS, LLC, a Pennsylvania Limited  
Liability Company; THOMAS C. LANDIS; an  
individual; CAVALRY PORTFOLIO  
SERVICES, LLC, a Delaware Limited Liability  
Company; and JOHN AND JANE DOES  
NUMBERS 3 THROUGH 25,

Defendants.

CASE NO.: 2:10-cv-05899-JFB -ARL


**CERTIFICATE OF SERVICE**

I, William F. Horn, certify that on April 25, 2011, I served the following document(s):

- (1) **PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSIONS DIRECTED TO DEFENDANT, THE LAW OFFICE OF THOMAS LANDIS;**
- (2) **PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSIONS DIRECTED TO DEFENDANT, THOMAS LANDIS, LLC;**
- (3) **PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANT, THE LAW OFFICE OF THOMAS LANDIS;**
- (4) **PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANT, THOMAS LANDIS, LLC;**
- (5) **PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANT, THOMAS C. LANDIS;**
- (6) **PLAINTIFF'S FIRST SET OF INTERROGATORIES DIRECTED TO DEFENDANT, THE LAW OFFICE OF THOMAS LANDIS;**
- (7) **PLAINTIFF'S FIRST SET OF INTERROGATORIES DIRECTED TO DEFENDANT, THOMAS LANDIS, LLC; and,**
- (8) **PLAINTIFF'S FIRST SET OF INTERROGATORIES DIRECTED TO DEFENDANT, THOMAS C. LANDIS**

by placing a copy thereof for delivery via U.S. Mail in an envelope addressed to the addressee listed on the attached service list.

*In accordance with 28 U.S.C. §1746, I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 25th day of April 2011, at Fresh Meadows, New York.*



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LAW OFFICE OF WILLIAM F. HORN  
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Fresh Meadows, NY 11365  
Telephone: (718) 785-0543  
Facsimile: (866) 596-9003  
E-Mail: bill@wfhlegal.com

*Attorney for Plaintiffs, Randolph Leidl and  
Lisa Wood, and all others similarly situated*

**SERVICE LIST**

Bradley J. Levien, Esq.  
MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS, LLP  
17 West John Street -- Suite 200  
Hicksville, NY 11801  
Telephone: 516-939-9200

# EXHIBIT “B”

Law Office of William F. Horn

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Fresh Meadows, New York 11365  
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[bill@wfhlegal.com](mailto:bill@wfhlegal.com)

June 2, 2011

Bradley J. Levien, Esq.  
MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS  
17 West John Street  
Hicksville, NY 11801

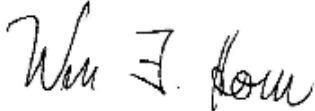
**Re:     *Leidl, et al. v. The Law Office of Thomas Landis, et al.***  
U.S. Dist. Court, E.D.N.Y. Case. No.: 2:10-cv-05899-JFB-ARL

Dear Brad,

As you know, on April 25, 2011, Plaintiffs served their initial sets of written discovery on your clients, which made their responses due on or before May 26, 2011. To date, I have not received your clients' discovery responses. As you also know, Plaintiffs have endeavored throughout this case to preserve the limited resources of the Parties and the Court by, *inter alia*, avoiding unnecessary motion practice. Accordingly, could please let me know when you are available to meet and confer telephonically pursuant to Local Civil Rule 37.3(a) so that we may attempt to resolve this discovery dispute.

Thanks Brad. I look forward to hearing from you soon.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Wm F. Horn", written in a cursive style.

William F. Horn  
*via e-mail only to [blevien@defensecounsel.com](mailto:blevien@defensecounsel.com)*

# EXHIBIT “C”

**William F. Horn**

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**From:** Brad Levien <blevien@defensecounsel.com>  
**Sent:** Tuesday, June 14, 2011 4:53 PM  
**To:** 'William F. Horn'; 'Andrew T. Thomasson'  
**Subject:** RE: Leidl, et al. v. Law Office of Thomas Landis, et al.

Thank you.

Bradley J. Levien  
Mintzer, Sarowitz, Zeris, Ledva & Meyers, LLP  
17 West John Street -- Suite 200  
Hicksville, NY 11801  
516-939-9200  
516-939-9201 (fax- *not for service*)  
[BLEvien@defensecounsel.com](mailto:BLEvien@defensecounsel.com)

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**From:** William F. Horn [mailto:Bill@wfhlegal.com]  
**Sent:** Tuesday, June 14, 2011 4:43 PM  
**To:** Brad Levien; 'Andrew T. Thomasson'  
**Subject:** RE: Leidl, et al. v. Law Office of Thomas Landis, et al.

Brad,

Sorry for the delay in responding.

I take you at your word that you did not receive the discovery requests and I have no problem with agreeing to an extra 30-days (from today) in which you can respond. So, 30-extra days means that your responses are due by July 14, 2011.

Regards.  
Bill

William F. Horn  
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188-01B 71<sup>st</sup> Crescent  
Fresh Meadows, NY 11365  
Telephone: 718.785.0543  
Facsimile: 866.596.9003

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**From:** Brad Levien [mailto:blevien@defensecounsel.com]  
**Sent:** Monday, June 13, 2011 9:45 AM  
**To:** 'William F. Horn'; 'Andrew T. Thomasson'  
**Subject:** RE: Leidl, et al. v. Law Office of Thomas Landis, et al.

Bill,

Any chance of getting these in Word form? It will certainly speed things along.  
Also, I am certian these demands were never received.  
Can we agree to 30 days from today for responses?  
I will get back to you later this week with deposition dates.

Brad

Bradley J. Levien  
Mintzer, Sarowitz, Zeris, Ledva & Meyers, LLP  
17 West John Street -- Suite 200  
Hicksville, NY 11801  
516-939-9200  
516-939-9201 (fax- *not for service*)  
[BLevien@defensecounsel.com](mailto:BLevien@defensecounsel.com)

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**From:** William F. Horn [mailto:Bill@wfhlegal.com]  
**Sent:** Friday, June 10, 2011 3:42 PM  
**To:** Brad Levien; 'Andrew T. Thomasson'  
**Subject:** RE: Leidl, et al. v. Law Office of Thomas Landis, et al.

Brad,

Sorry to hear about the written discovery I sent – I was surprised that you had never responded. Attached hereto are the discovery requests as well as the certificate of service. Absolutely, you may have more time to respond to the requests - how about responding by June 24, 2011.

Also, I have no record of having received you Rule 26 disclosures.

Finally, I would like to begin depositions sometime after June 30, 2011. What is your and Mr. Landis' schedule for the first week in July?

Regards.  
Bill

William F. Horn  
Law Office of William F. Horn  
188-01B 71<sup>st</sup> Crescent  
Fresh Meadows, NY 11365  
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Facsimile: 866.596.9003

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**From:** Brad Levien [mailto:blevien@defensecounsel.com]  
**Sent:** Friday, June 10, 2011 7:06 AM  
**To:** 'Andrew T. Thomasson'  
**Cc:** bill@wfhlegal.com  
**Subject:** RE: Leidl, et al. v. Law Office of Thomas Landis, et al.

Andrew/Bill,

I have scoured my file and do not see your 4/25 demands.  
I must admit I don't remember receiving them either.  
If you could please re- e-mail them and grant a short extension to respond I'd appreciate it.  
Thank you in advance.

Also, can you let me know the status of service of the Amended Complaint on Cavalry?  
I don't recall seeing anything come through ECF and based on the speed you were seeking at the initial conference I'd have thought you;d have served them by now.

Brad

Bradley J. Levien  
Mintzer, Sarowitz, Zeris, Ledva & Meyers, LLP  
17 West John Street -- Suite 200  
Hicksville, NY 11801  
516-939-9200  
516-939-9201 (fax- *not for service*)  
[BLevien@defensecounsel.com](mailto:BLevien@defensecounsel.com)

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**From:** Andrew T. Thomasson [mailto:[andrew@wfhlegal.com](mailto:andrew@wfhlegal.com)]  
**Sent:** Thursday, June 02, 2011 2:13 PM  
**To:** Brad Levien  
**Cc:** [bill@wfhlegal.com](mailto:bill@wfhlegal.com)  
**Subject:** Leidl, et al. v. Law Office of Thomas Landis, et al.

Mr. Levien, please see the attached correspondence from Bill Horn regarding the referenced matter.

Very truly yours,

Andrew T. Thomasson  
**LAW OFFICE OF WILLIAM F. HORN**  
188-01B 71st Crescent  
Fresh Meadows, NY 11365  
Direct Dial: (973) 665-2056  
Facsimile: (866) 596-9003

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